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Current Topics.

Professional Lien.

A CASE of interest to the profession, *L. & J. Hoff* v. *The Union Insurance Society of Canton*, was decided on 29th July last, and is recorded in "Lloyd's List and Shipping Gazette" of the next day. There had been a seven weeks' hearing in the court below, nine points having been argued and dealt with by WRIGHT, J., who dismissed the action. On the appeal the court made an order requiring £4,000 to be paid in as security for costs. At the hearing the court affirmed the decision of WRIGHT, J., in agreeing with him on one point, with the consequence that it was not necessary to argue the other eight. The lessened costs, therefore, were considerably more than covered by the sum brought into court. The bill was brought in for £3,400, and taxed down to £2,500. The plaintiffs were in debt to the defendants, who asked for and were granted a charging order on the surplus £1,500 by way of equitable execution. As to the clear surplus over the bill brought in, £600, it was admitted they had the right to it. The solicitors to the plaintiffs, however, claimed that they had the right to an order for the remaining £900 on the ground that they had recovered or preserved it within s. 28 of the Solicitors Act, 1860, by their exertions in inducing the taxing master to mitigate the bill. The court decided that, since the defendants had got in their application first, they had obtained priority over the plaintiffs' solicitors and were entitled to the whole sum. It was not therefore necessary to decide whether the fruits of taxation fell within s. 28. SCRUTTON, L.J., expressed himself *obiter* as opposed to such a view. GREER, L.J., was inclined to disagree with him; and RUSSELL, L.J., entirely declined to pronounce any opinion, so the point may be regarded as open. The words "property recovered or preserved" received a wide interpretation in *Pelsall Coal Co.* v. *L. & N.W. Rly. Co.* [1892] 8 Ry. and Canal Traffic Cases, 146, in which the railway company's lien on certain waggons was reduced in favour of the coal company. The enhancement of the value of the waggons was held to be "property recovered." On the other hand, enhancement of value to property owing to the establishment of benefit or release of burden of an easement was held outside the section in *Foxon* v. *Gascoigne* (1874), L.R. 9 Ch. 654. In the above case, had it not been for the paramount and prior lien of the defendants, the result of the taxation would have been that the plaintiffs would have recovered £900 of the fund in court, and in the matter of that fund the solicitors might be said either to have prosecuted the claim of the plaintiffs to £900 or to have defended it against the claim of the defendants for that amount, the plaintiffs on either view being richer by £900 in cash in consequence. We must therefore respectfully express our preference for the view of GREER, L.J.

What is a "Building"?

THE MEANING of the word "building" sometimes causes controversy when the word is used in restrictive covenants. In *Stevens* v. *Willing & Co. Ltd.* (1929), W.N. 53, the purchaser covenanted that he would not "at any time thereafter erect on the said land . . . any buildings whatsoever"—except as in the conveyance mentioned—"and would not without the previous consent in writing of the plaintiffs erect any other or additional buildings, walls or fences on the said land . . ." The permitted buildings "in the conveyance mentioned" included "dwarf walls or fences." Later the defendant company came into possession of the property in question and erected upon it an advertisement hoarding without obtaining the permission of the plaintiffs. It was held by MAUGHAM, J., that the advertisement hoarding erected by the defendants was a prohibited building within the meaning of the covenant. It is by no means easy to determine whether a certain structure is or is not a building within the meaning of a restrictive covenant. This difficulty was acknowledged in *Paddington Corporation* v. *Attorney-General* [1906], A.C. 1, by the EARL OF HALSBURY, L.C., when he said, at p. 3: "The subject-matter to be dealt with is to be looked at in order to see what the word 'building' means in relation to that particular subject-matter. It is impossible to give any definite meaning to it in the loose language which is used in some cases; anything which is in the nature of a building might be within one covenant and the same erection might not be a building with reference to another covenant." Confining our attention to advertisement hoardings, we may usefully refer to the following cases. In *Foster* v. *Fraser* [1893], 3 Ch. 158, the conveyance of part of a residential estate contained a covenant by the grantee that any "building" which should be erected on the land should be at least twenty-two feet in height and have a stuccoed front and slated roof, and be used only as a dwelling-house. It will be noted that the foregoing covenant did not contemplate that the grantee should at any time build anything, nor was there any express covenant that required him to build a dwelling; in effect, the covenant merely stated that if the grantee did build, then the building should be of a certain kind. It was held by KEKEWICH, J., that the erection of an advertisement hoarding was not prohibited by the covenant. In *Nussey* v. *Provincial Billposting Co.* [1909], 1 Ch. 734, the purchasers of a portion of a residential estate covenanted that "no building should be erected thereon to be used for manufacturing purposes nor for the carrying on of any noisy, noisome, offensive, or dangerous trade or calling . . ." It was held by the Court of Appeal that an advertisement hoarding was, within the meaning of the above covenant, a "building" upon which the trade of bill-posting was carried on, and that this was an "offensive trade" to the owners of the adjoining plots.

Mr. Lorang's Extradition.

MR. LORANG is not the first financier who has preferred to keep his own company abroad rather than yield it to the London police at their expressed and urgent desire; but the more notable of his predecessors do not appear to have been subjects of the Duchy of Luxemburg. Our extradition treaty with this little State, made in 1880, will be found printed in "Clarke on Extradition," p. cclxxxv. Article 15 makes the usual "fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, made criminal by any law for the time being in force" an extraditable offence. By Art. 1, however, there is excepted from the engagement of the Grand Duchy to deliver up persons, etc., the class of its own subjects. In this respect, it may be observed, the treaty is unilateral, for QUEEN VICTORIA made no such exception of hers. Assuming, then, as stated in the Press, that Mr. LORANG still owes allegiance to the Grand Duchy, no claim for his extradition can validly be made if he is found on its soil. If, however, the laws of France and Belgium resemble our own in the respect laid down in *R.* v. *Ganz* (1882), 9 Q.B.D. 93, the fact that Mr. LORANG was not a subject of those countries would not prevent him being extradited from either of them if he were taken on their territory. Probably, however, no one has a more accurate knowledge of these matters than the elusive begetter of the "Blue Bird" chain of companies. Presumably a country which refuses to surrender its nationals makes some sort of undertaking that it will not allow them to commit grave offences on the soil of friendly neighbours with impunity. Putting the converse case, that an English financier was accused of fraud in connexion with Luxemburg companies, it would seem probable that no indictment would lie against him in this country, for English courts cannot take cognisance of crime committed out of the jurisdiction, unless there is express statutory authority for trial. In the case of murder, s. 9 of the Offences against the Person Act, 1861, gives this authority, but on a prosecution under any of the ss. 81 to 84 of the Larceny Act, 1861, or s. 20 (1) (ii) of the Larceny Act, 1916, there does not appear to be any corresponding direction. If, then, Mr. LORANG, remaining in Luxemburg, avoids extradition and escapes trial in that country, or, being tried, successfully pleads that the offence with which he is charged, not being there committed, is not triable in its courts, the matter will be one for the grave consideration both of the Legislature and the Foreign Office. The chief protection of shareholders against fraudulent directors is the criminal law, and, if the natives of any particular State can successfully evade it, they should not be eligible as officers of a British company unless and until naturalised.

Financial Crashes.

SINCE THE affairs of Mr. HATRY and the companies with which he is associated are likely to be in one way or another *sub judice* for many weeks to come, it would be wrong to make any detailed comment on the latest City sensation. But one may guess without fear of contradiction or danger of creating prejudice that the amount lost by the investing public will prove to be large. This year which has already given us the Brandreth case and the *Blue Bird* fiasco, may be regarded as one of spectacular financial smashes, though the number is not out of proportion to the obviously speculative flotations of recent times. The chief impression left on the ordinary legal practitioner, who has little knowledge of the City but a healthy scepticism where money is concerned, is one of surprise where the funds have come from. It is equally difficult to imagine the shares in these companies being held by those who know nothing about them or by those who do. The case is obviously different where, as in the *City Equitable* failure a man of first-class social and financial position defaults. Equally, it is easy to understand the amount of money invested in Mr. BOTTOMLEY's concerns in view of his popular prestige in the years after the Armistice. But none of the companies which have recently failed seems to have owed its success to the support of any figure well known to the average public. It would be exceedingly interesting to see a complete list of the shareholders of one of these insolvent companies, together with the amount of the holding of each, the date and price at which he bought, and his reason for doing so. We commend the idea of an unofficial census on these lines to one of our enterprising contemporaries. The published result might well prove a salutary lesson to the general investor.

Local Authorities and the Hatry Crash.

ONE OF the Hatry companies appears to have functioned as an issuing house, and in that capacity to have been patronised by various borough councils in the placing of their stock. The officials of one borough which has recently made an issue under such auspices have reported that, for all scrip entrusted to the company, they have received and hold equivalent cash—a statement which no doubt will be grateful and comforting to their ratepayers. Other local authorities, however, do not at present seem to have been so fortunate. If a deficit results in any particular case, the legal position will certainly have to be considered very carefully, but at present the data given in the Press do not contain the details necessary for an opinion. So far as the issues may have been made under the Public Health Acts, they were regulated by the Public Health Act, 1875, ss. 233-244, and the Public Health (Amendment) Act, 1890, s. 52 (1), the latter section giving the power to create stock where the borrowing power exists. Regulations under it were made in 1891 by the Local Government Board (now the Ministry of Health) and have from time to time been amended. Neither in the regulations nor in the Acts does there appear to be anything corresponding to s. 89 of the Companies Act, 1908 (and s. 43 of the Companies Act, 1929), to allow of underwriting. But by Art. 24 of the Regulations a bank or other company may be appointed as registrar, which may perhaps imply power to delegate the actual function of issue. As between a local authority and the holder of stock, registered in the proper books and having given valuable consideration for his holding, there can, of course, be no question that the authority is fully liable. This liability was admitted in *Sheffield Corporation* v. *Barclay* (1905), A.C. 392, where the bank innocently proffered a forged transfer to the corporation officer to register the transferee as holder. The House held, reversing the Court of Appeal, that the bank was liable to indemnify the corporation for acting on the request. In the present case, the issuing company would be liable to a corporation for money paid by purchasers of its stock, but, if the company was unable to discharge that liability, there would be a loss for which ratepayers would be wholly liable, unless the corporation officials concerned failed in or exceeded their duty in allowing borough securities to leave their hands without the proper amount of cash being paid to them or credited to the borough account. This is a question on which perhaps evidence might be given of the ordinary usage of borough councils, treasurers and town clerks. A trustee is not bound to keep trust money locked in his safe, but may entrust it to a broker, banker, or solicitor in cases where he would probably deal with his own money the same way, so possibly borough officials have authority to place stock according to the ordinary customs of business.

Amount of Permanent Maintenance.

IT IS well to remember that there is no fixed rule about the amount of a husband's income which will be allotted to provide permanent maintenance for his wife. In *Steyning* v. *Dayrell Steyning* [1922] P. 280, the learned President ruled that the husband's income must be regarded as the disposable amount which remains in his hands after paying the expenses of earning it; these expenses include his liabilities for income tax and super-tax. Therefore all these must be deducted to arrive at the income, one-third of which is to be allowed for

the wife's maintenance. The practice of the Divorce Court to allow a wife a sum of one-third of the husband's income is a rule which is usually and most often adopted. However, in *Sherwood* v. *Sherwood* [1929] P. 120, the Court of Appeal laid down that the one-third rule is no more than a rough working rule and does not impose an absolute limit. Moreover, another interesting point arose there in regard to the estimation of the husband's income, which in this particular case had varied considerably during the past few years. The Court of Appeal directed that, in estimating the amount of the allowance to be made to the wife, the court must not focus its attention only on the disposable income of the husband in the year preceding the making of the order, but must have regard to his earnings in previous years and to his probable earnings in the future. This appears to be eminently sound and just, for, as Lord HANWORTH, M.R., pointed out, "Is it reasonable to fix attention only on the past? If you are regarding the joint future lives of the husband and wife, is it not right to take into account not merely those features which would be regarded by a pessimist, but also those features which would be regarded by an optimist?"

The Corpse as Evidence of Murder.

THE EXTRAORDINARY case in which a man went to the police, and told a circumstantial story of how he had thrown a woman over Waterloo Bridge, may perhaps be deemed to have been best met by Sir CHARTRES BIRON'S dismissal of the consequent charge of murder. There was no corroboration whatever of the story; no corpse was found, no woman was missing, no person had seen or heard anything of such an incident, although the bridge can hardly ever lack a few wayfarers, and the only independent evidence of the prisoner's movements was that he had been seen alone a little before the time in question at a public-house. As the learned magistrate observed, the dismissal of the charge by him was not a verdict of "not guilty," and, if further evidence were forthcoming, the plea of "*autrefois acquit*" would therefore not be open to the prisoner. False confessions of murder are of course common, and give much trouble to the police, but the confessions usually relate to a known crime and a particular body. Both magistrate and counsel expressed themselves puzzled in the present case as to the proper legal implications, and there was a suggestion that *R.* v. *Hindmarsh* (1792) 2 Leach 569, was the last one in which there was a verdict of murder when the body of the murdered person was missing, having been carried away by the sea. The weight to be given to an uncorroborated confession was also discussed. On both points, however, it may be suggested that the case of *Maud Kersey* [1908] 1 Cr. Ap. R. 260 is authority. This young woman confessed to concealment of birth, and said further that she had cremated her child's body. She was indicted for murder before Mr. Justice RIDLEY, found guilty of concealment of birth, and sentenced. The court dismissed the appeal, the Lord Chief Justice stating that "there was abundant authority that a clear and unequivocal confession may be sufficient in law." The report is a very short one, and does not mention whether there was proof that the woman had been pregnant, but presumably there was, and this would be corroborative evidence, which was absent in the Waterloo Bridge case. As to the danger of conviction in the absence of a corpse, the very remarkable case of the *Perrys* (1660) 14 State Trials, 1312, may be adduced, in which it appeared that two brothers, JOHN and RICHARD PERRY, and their mother JOAN PERRY, were hanged for the murder of WILLIAM HARRISON, who suddenly returned to his home two or three years afterwards with a story of how he had been kidnapped in the middle of the night and taken abroad. On p. 571 of *Hindmarsh's Case, supra*, that of the mother and father of a bastard child throwing it off a dock at Liverpool was cited. The judge held that the tide might have carried the living infant out to sea, and the jury by his direction acquitted the prisoners.

Criminal Law and Police Court Practice.

CHALLENGING THE JURY.—It is unusual in this country for the right to challenge jurors to be exercised. But it is occasionally used to secure a one-sex jury. A case occurred at the Central Criminal Court where counsel for the defence of a man charged with a sexual offence, thus succeeded in eliminating all the women members who would otherwise have served. The Recorder said, "I object to the practice but I cannot stop it." The practice is one of doubtful expediency. All sorts of influences affect a jury. The theory seems to be that women are determined to protect their own sex at all costs. On the other hand, women are apt to be severe judges of women, and are certainly less open to the effects of youth and beauty, which are not unknown factors in deflecting male jurors. Peremptory challenges are not a satisfactory feature of criminal procedure, and if they are used to discriminate against one sex are likely to be abolished.

THE PRISONER'S CHARACTER.—In criminal trials, though the bad character of an accused person is generally irrelevant and questions as to previous convictions are inadmissible, there are, as is well known, statutory exceptions which permit of cross-examination as to previous convictions. Even so, there is generally considerable reluctance to introduce such evidence, especially before a jury.

In the trial of a receiver at the Old Bailey last week, cross-examination brought to light a previous conviction of ten years ago, since when the prisoner had lived honestly and worked hard. The learned Common Serjeant said that if it had been within his discretion he would have disallowed the question, as he thought it hard to put it to a man who had lived honestly for ten years, but he felt unable to do so when he considered the statute. It might be, he said, that one consequence was that the jury took the adverse view they did. The prisoner was found guilty.

If a judge felt that such an old conviction ought to be ignored in passing sentence, as he did in this case, it is reasonable to argue that a jury might equally refuse to be influenced by it in arriving at their verdict. On the whole it seems a pity that the question was asked at all, although of course counsel may have had some reason for putting it which does not appear from brief newspaper reports. More and more the tendency of the present day in criminal trials is to let bygones be bygones.

RE-TRIAL EXTRAORDINARY.—Curious items of news originate in Russia. The Soviet Republic reserves the death penalty for counter-revolutionary offences, an understandable position in a State seeking to consolidate a new order, though startling to Western European theorists who consider "political" offenders have a claim to light punishment. But a severe law is not enough for Russia; it must be ruthlessly enforced. Recently two men tried for "preaching against and obstructing the sequestration of a church," were sentenced to three years' imprisonment, to be followed by banishment. Thereupon, if *The Times* correspondent correctly reports the matter, the Soviet authorities ordered a new trial and published in the *Izvestia* "definite official instructions that the court must sentence the prisoners to death." To call this "a new trial" seems a queer use of terms. Any "trial" must be a mockery with the sentence determined beforehand. It is merely the revision of sentence by authority.

There is an absence of humour, too, in the Russian notion of evidence. A film of life in the Solovetsky penal settlement is to counteract the impressions abroad of cruelty and horror, and show instead the "great healing work of the Ogpu among criminals." The *Izvestia* says that, "having seen the film, the spectators *must* become convinced that the tales about the horrors practised in the Ogpu's dungeons are myths." Films are notoriously true to life, and incapable of being faked. It is comforting in a world of deception to have such an incontrovertible agent of truth at last to hand.

The Landlord and Tenant Act, 1927

THE RIGHT TO COMPENSATION FOR IMPROVEMENTS.

By S. P. J. MERLIN, Barrister-at-Law.

(*Continued from* 73 Sol. J., *p.* 607.)

II.

In the last article a general survey was made of the respective rights and liabilities of landlords and tenants under the provisions of the Landlord and Tenant Act, 1927, relating to improvements executed by tenants. In this article it is proposed to deal somewhat more specifically with these rights and liabilities.

One of the first things of which a legal adviser usually has to disabuse the mind of his lay client is the impression —generally held—that this Act is retrospective in its provisions as to "improvements" as well as to "goodwill."

That is not so. The Act does not give compensation for improvements which were executed before the 25th March, 1928. On the other hand, it does provide compensation for improvements hereafter duly made and certified under the Act, although the lease under which the premises are held was granted before the Act came into force. In other words, the Act is retrospective as to leases, but not as to improvements executed before it was enacted.

Section 1 of the Act provides that, subject to the provisions of this Act, a tenant of a holding to which this Act applies, shall, if a claim for the purpose is made in the prescribed manner:—

(*a*) in the case of a tenancy terminated by notice within one month after the notice was served on or by the tenant; and

(*b*) in any other case, not more than thirty-six nor less than twelve months before the termination of the tenancy;

be entitled, at the termination of the tenancy on quitting his holding, to be paid by his landlord compensation in respect of any improvement (including the erection of any building) on his holding made by him or his predecessors in title not being a trade or other fixture, which the tenant is by law entitled to remove, which, at the termination of the tenancy, adds to the letting value of the holding:

Provided that the sum to be paid as compensation for any improvement shall not exceed—

(*a*) the *net addition* to the value of the holding as a whole which may be determined to be the direct result of the improvement; or

(*b*) the reasonable cost of carrying out the improvement at the termination of the tenancy subject to a deduction of an amount equal to the cost (if any) of putting the works constituting the improvement into a reasonable state of repair, except so far as such cost is covered by the liability of the tenant under any covenant or agreement as to the repair of the premises.

It should be noted that the holdings to which the Act applies are, as a general rule, any premises held under a lease, other than a mining lease, and used wholly or partly for carrying on thereat any trade or business, and not being agricultural holdings. As to the tenants to which the Act applies, a tenant is defined as "a person entitled in possession to the holding under any contract of tenancy, whether the interest of such tenant was acquired by original contract assignment operation of law or otherwise." Having regard to the last words, it would be difficult to construct a definition which would bring a greater number of tenants within the ambit of the Act. There appears to be no limit as to the minimum rental value to which the Act applies, and it would appear that a weekly tenant who has continued in his holding as tenant for over three years and desires to spend money on improvements may be regarded as within the Act, and may be treated under it as if he had been a lessee for the same period as he has been a weekly tenant. In other words a tenant under a verbal agreement of tenancy is as much within the Act as a lessee under a lease for 21 years.

Section 1 sets out how, when, and to what extent, a tenant of premises used for business purposes shall be entitled to compensation for any improvements made by him or his predecessors in title in his holding:—

Firstly, the claim must be made in the "prescribed" manner. In the interpretation section the expression "prescribed" means prescribed by the County Court Rules, except that in relation to proceedings before the High Court it means prescribed by rules of the Supreme Court (see s. 25);

Secondly, the claim should be made within the periods specified in clauses (*a*) and (*b*) of s. 1, sub-s. (1);

Thirdly, the amount of compensation which may be claimed is indicated in a negative way in clauses (*a*) and (*b*) of the proviso to sub-s. (1), which must be read together with the directions given in sub-s. (2) hereof and with s. 2 which limits the tenant's rights to compensation in certain cases.

It is only when the tenant actually quits his premises that he becomes entitled to such compensation as the Act may give him. A continuing lessee can never recover compensation. And moreover, under s. 2 (1) (*d*), the landlord can discharge himself from all liability to pay compensation to the tenant for his improvements by offering to grant him a renewal of the tenancy at such a rent as the tribunal may consider reasonable, and if the tenant does not accept the offer, within one month, he will lose any rights he may have for compensation under this Act.

A tenant cannot under this Act make any improvements or put up any building he desires, and obtain compensation for them when leaving. His rights are considerable if he observes the prescribed procedure, but they are strictly regulated by s. 3 of the Act, which provides that a tenant who proposes to make improvements must (if the landlord does not consent), satisfy the tribunal, *inter alia*, that they are reasonable and suitable ones, before he can obtain a certificate entitling him to execute them. (See s. 3 as to the procedure and the landlord's right to object.) It is surmised that various types of buildings and even heavy machinery such as shafting together with lifts, may be certified as improvements within the Act, provided they have to be affixed to the freehold and cannot therefore be removed as tenants' or trade fixtures.

The Sum to be paid as Compensation.

The duty of determining the amount of compensation due to the tenant—under the provisions of this Act—for improvement is placed on the shoulders of the tribunal. With the clearest possible guidance this task would not be anything but a difficult one. Unfortunately for the tribunal their duty has been made still more difficult for them by the exclusion from the Act of any definition of an "improvement"; by the omission of any positive formulæ as guides for arriving at the amount; by the negative directions in the proviso to s. 1; and by the variable factors which are expressly mentioned in sub-s. (2) as matters to which "regard shall be had" when determining the amount due.

As to clause (*a*) in the proviso to s. 1, the original wording in the Bill was for the tribunal to ascertain the addition to the letting value of the holding at the termination of the tenancy, and then to capitalise it. This wording was altered to the present one in the House of Lords, and the matter is now left at large to the judgment of the tribunal.

It is probable that in many cases the valuer will consider it proper to ascertain the increase in the rental value, which is directly due to the improvements, and allow so many years' purchase as he may deem fair. But he is not bound down to this method, and he must have regard to the qualifying word "net" and give effect to it, if the facts require it.

NET ADDITION.

The term " net addition " used in the Act implies the existence of a " gross addition." When the Bill was in committee it was suggested that some alterations might be regarded as improvements from some standpoints, and as " dis-improvements " from others. For example, where an " improvement " is made by the erection of a building in the forecourt of a shop (thus extending the roofed-in space of the premises) at a cost say, of £500, this gross sum would be reducible by the value of the lost amenities of the forecourt, which may have been worth say £200. Thus, in such case, apart from other facts, the " net addition " arrived at would be £300.

(To be continued.)

Solicitors' Bad Debts.

BY HAROLD BEVIR, M.A.

THE decision given by the House of Lords on 18th March, 1929, in the case *The Commissioners of Inland Revenue* v. *Hagart and Burn-Murdoch* is one that has probably caused a considerable amount of surprise among solicitors, and also possibly among many of the Inspectors of Taxes, who have, in the past, adopted the policy of allowing as bad debts against the profits earned by a solicitor, advances made in circumstances similar to those in the case under review.

The verbatim judgments in the case are well worth considering. The facts are fairly simple. The appellant firm—they are a Scottish firm and Writers to the Signet—acted as solicitors in the formation of a company to develop a new metal alloy. The firm held no office or shares in the company, their relation to the company being purely professional. They advanced, altogether, £2,615 without security and without written acknowledgment; it was admitted in the judgments that they believed there would be future extensive developments, and they may well have regarded the assistance they gave as likely to mature for them in profitable business in the future. The company failed, and the moneys were wholly irrecoverable.

The appellants sought to deduct this sum of £2,615 as a loss in ascertaining their profits, but it was disallowed by the Revenue. They appealed to the General Commissioners successfully, but the Court of Session reversed the Commissioners' finding and the House of Lords confirmed this decision. It was found as a fact by the Commissioners that the appellants were in the habit of making advances to clients, when required, without security, and that the sole relations between the solicitors and the company were those of solicitor and client, in the course of which they also became creditors for the advances above mentioned.

Lord BUCKMASTER, who gave the senior judgment, held that it was in fact a separate venture from that of Writers to the Signet, and even if undertaken in the hope and expectation that it would help their business, it was none the less no part of their true profession. He held that although the advances were made in the course of the relation of solicitor and client, and in accordance with their habit, that was insufficient; lending money to clients might often be done by Writers to the Signet, but it was not essentially part of their profession, and if a case ever arose in which it could be held that moneylending and the profession had become one and the same business it would require a special finding to that effect before the position could approach that of the cases quoted.

Lord SHAW OF DUNFERMLINE based his decision on the ground that the advance was not wholly or exclusively laid out for the purposes of the appellants' profession of solicitors, according to the rules applicable to cases (1) and (2). He stated that a court was not concerned with the motive of such a transaction, which might spring from personal interest or from generosity, or from a sense of favours to come, and that it was in the highest degree doubtful whether any custom could avail to bring banking or moneylending within the scope of a solicitor's business, and that it was beyond all doubt that no custom could rest upon what an individual solicitor himself did.

Lord WARRINGTON OF CLYFFE quoted from the facts stated by the Commissioners, namely, that there were six examples of advancing money to other clients in recent years in similar circumstances and for purposes similar to the advances in question. The case stated referred to an answer to a question by the Commissioners, when the Inspector of Taxes stated that he did not desire any further enquiries as to the firm's custom with regard to advances to clients or as to the circumstances or nature of the advances to other clients. He largely based his decision on the fact that there was no finding by the Commissioners that the appellants carried on the business of moneylending in connexion with, or as a branch of, their business as solicitors, and that it was not stated that there was any general practice among solicitors in Edinburgh to do so. He, however, admitted that there was no doubt that in making these advances they were probably actuated by the feeling that it was good policy to keep on good terms with their clients, and that to refuse to make advances might lose a lot of business, but he could not think that on those findings there was any ground shown for holding that the advances in question were made for the purpose of the appellants' profession of Writers to the Signet, and added that he would much regret on grounds of public interest if he were compelled so to hold.

Now this decision, being that of the final Appeal Court, creates a matter of great difficulty for all solicitors, and unless one can get very special findings of fact it means that in future no solicitor will be able to set off against his profits any losses in connexion with sums paid, except those made in the usual course of professional work, as, for example (to quote from the judgments), " in making payments to defray expenses in connexion with a law suit or the purchase of property."

One is bound by and must bow with respect to any House of Lords decision, but it is most unfortunate that the General Commissioners, who heard the first appeal and allowed it, should not have stated as a fact what one would assume was general knowledge. Is there a solicitor who can say that he has never, in the course of his professional work, made an advance to a client for no other motive than that it was part of his professional interests so to do? How many are there who can deny that they make such advances habitually?

Obviously, of course, and it needs no reiteration by the court, any *disbursements* which are unpaid are clearly deductible as a loss if never recovered from the client, but the most junior tyro among articled clerks is taught in his earliest stages the difference between a disbursement which is included in a bill and a payment which must not be shown upon a bill, but which is a cash account item upon the ledger. Now, if it is to be laid down as a general principle that no cash account item is paid in the course of one's professional work, the whole basis of solicitors' work must be re-organised.

It was admitted in the judgments that the object of making the advance was for securing future profitable business, and it is suggested that a conclusion must be drawn that such a payment must have been wholly and exclusively laid out or expended for the purpose of the profession, unless there was a definite finding that it was made out of charity or for some other purpose, such as the intention of receiving profit upon the loan.

It is fantastic to suggest that a man is a moneylender who lends or advances money without any written acknowledgment and with no provision for payment of interest. Every solicitor who has any debt accounts on his client's ledger has, in the course of his profession, done this time and time again.

Under the Moneylenders Act of 1900 it appears that a moneylender includes every person whose business is that of

moneylending or who advertises or announces or holds himself out in any way as carrying on that business, but excludes (*inter alia*) any person *bonâ fide* carrying on any business not having for its primary object the lending of money in the course of which and for the purposes whereof he lends money.

This creates a dilemma. Solicitors who carry out transactions such as the one in question are either moneylenders or they are not. The dicta of the House of Lords lay down that they are, and consequently solicitors are exposed to all the penal clauses under the Act, and in default of registration, etc., are in jeopardy with regard to the recovery of any moneys so advanced as well as subject to penalties under the Moneylenders Act. The only ground for denying that they are moneylenders is that they are *bonâ fide* carrying on a business of which moneylending is not the primary object, and in the course of which and for the purposes of which the money was lent. In the case in question, however, the House of Lords has definitely laid down that the moneys were not lent in the course of the business but in connexion with a separate business.

Analyse the judgments as one will, it will be found to be a matter of great difficulty ever to find a loan or advance or debit account made in such circumstances that it can evade the consequences of the decision in the case in question.

Are The Law Society willing to bring another test case in which the General Commissioners will find as a fact (*a*) that the appellants in that case are solicitors and that they carry on the business of moneylending (not in the usurious sense in which that word is generally used, but without interest or written acknowledgment); (*b*) that it is an essential part of their profession that such advances shall be made for the purpose of keeping business in their office; and (*c*) that it is proved that solicitors generally carry out similar business?

Such are the facts in nearly every solicitor's office, and abundant evidence can be called to prove this fact, which was assumed by the House of Lords to be non-existent.

One is only favoured with a perusal of the judgments delivered, and not with the presentation of the case and the arguments evolved, but it is assumed that the existing practice was not put in evidence, and, in fact, evidence of practice in revenue matters is not material for the purpose of deciding the law. At the same time it is felt that had stress been laid upon what, it is believed, has always been accepted as the law by the Revenue, a different finding might have resulted.

It is understood that, as a general rule, if a debt is *bonâ fide* incurred and is irrecoverable, it has been allowed as a bad debt and as appurtenant to a solicitor's business, provided that it was an advance, loan or debit to a client for the purpose of securing or retaining business, or in connexion with that business, and was not a transaction unconnected with the business, or by way of investment or of a nature that some ulterior object was to be gained either by way of capital profit or by way of a large rate of interest. A fair test to be put is that if a private individual would have been as ready to make the advance as a solicitor was, then, as a general rule, the loan was not one which, if bad, could be debited in the account.

These principles, it is suggested, are the right basis on which such transactions should be treated, and it is hoped that every effort will be made to relieve solicitors from the unfair burden to which they will now be subjected.

Many thousands of pounds annually must be at stake, and how is it possible for the relief, to which solicitors feel they are entitled, to be obtained? The process in future must be this: If a solicitor does what the House of Lords suggests he should not do, and carries out transactions which do not form part of his professional business, a separate entity must do so. In other words, he should form a small limited company, and any client who desires an advance or to incur a debit on the ledger account must be told: "I am afraid that this is no part of my business, but I have clients who would be prepared to make the advance to you, and I will procure for you a cheque on Blank Limited, the little company which is formed for the purpose of carrying out these "money-lending" (*sic*) transactions without interest."

Fortunately the majority of advances made to clients in such circumstances are ultimately repaid, and it may be assumed that the interest, if any, which is charged is not of a very high amount. Consequently the profits of Blank Limited are not likely to be large, but this little company should acquire from the solicitor sufficient investments to bring in enough income to provide a source of profit against which any loss on bad debts can be set off. It is immaterial whether the shares are held by the solicitor or not, as the courts have decided that a limited company is a separate entity to an individual (*Saloman* v. *Saloman Ltd.*, 1897, A.C.); nor is there anything irregular or even tricky in such a procedure, for it may be said that it is not merely suggested but approved by the House of Lords, because the solicitor would be putting his house in order and dealing in his own office only with those matters which are purely professional matters.

It is no exaggeration to say that the decision is momentous and deserves serious consideration by The Law Society on our behalf, or some concerted action by the profession as a whole, in order to obviate the considerable hardship which it involves.

Arsenic.

By WILLIAM MARSHALL FREEMAN, of the Midland Circuit, Barrister-at-Law.

There never was a time when arsenic loomed more widely in the public eye than the present. Almost every day the newspapers contain reports of a fresh "suspected" poisoning case, in which arsenic is thought to have played an effective part. Coroners sense it from afar; police and prosecutors are ready to adopt it on the slightest occasion. Juries are never sure that they have not been summoned to a prolonged investigation in which poisoning by arsenic will be the issue for them to decide upon.

Now, it might be supposed that with the experience of the last ten years—since the notorious *Greenwood Case*, which created the first really big arsenic sensation of post-war days—the Privy Council and the Ministry of Health (who between them exercise an all-powerful discretion to regulate the sale of poisons and poisonous substances) would by this time have taken the one most obvious and simple measure to prevent the too-easy distribution of arsenic and its retention in the possession of private individuals under circumstances that might lead to its misuse (accidental or intentional). But such is the perverseness of human affairs, and so inexplicable are the ways of Whitehall that whereas in other respects the handling and distribution of poisons is to-day subjected to rules and regulations of the strictest and most detailed character, the ease with which arsenic can be purchased in wholesale quantities by any member of the public has actually been increased tenfold by allowing it to be sold in unlimited quantities by licensed vendors of weed-killers, sheep-dips, insecticides and similar agricultural and horticultural preparations—these licensed vendors being persons with no scientific qualification whatever, and not subject to any professional control such as chemists and medical men are under. The possession and storage of arsenic by private persons moreover are not subject to any regulations whatever!

Why is it that any allotment-holder or other honest simple-minded person can go and buy for a few pence from his local ironmonger enough arsenic to poison hundreds of people, and be allowed to use such portion of it as he requires, and keep the rest lying about in his garden tool-house, accessible to the first evil-disposed or foolhardy person that chooses to help himself

to it? One of the explanations most frequently given is that arsenical weed-killers, etc., are *necessary* for these several purposes. That is pure nonsense. The idea that there is nothing to take the place of arsenic as a destroyer of insect and plant life is one of those remarkable delusions that get hold of the official mind and stick there. Unhappily the efficacy of arsenic for these purposes has become almost a fetish with the people who use it (especially since the Board of Agriculture took upon itself to broadcast the news for the benefit of apple-growers!). In January, 1926, at an important scientific gathering in Edinburgh two papers were read by distinguished chemists on "The Use of Arsenic in Horticulture and Agriculture." One declared, in the course of an exhaustive review of the subject, that "the use of arsenic in any shape or form, both in agriculture and horticulture, is uncalled for, and places an unnecessary burden and risk upon everyone brought into contact with it . . . The number of accidents and losses and the risks to both operators and animals far outweigh any possible beneficial results, and its use could be abandoned with much advantage." His colleague, in a supplementary paper, gave results of experiments showing the destructive power of caustic soda as a weed-killer, and said that all the indications from his experience went to show that arsenic in agriculture, especially for sheep-scab and parasites, should be absolutely prohibited, because alternative non-poisonous chemicals were now available.

In 1920 the Council of the Pharmaceutical Society reviewed the evidence given in the then recently-concluded *Greenwood Case*, and passed a series of resolutions, copies of which were sent to the Ministry of Health and the Privy Council. One of the resolutions read: "The case also provides additional evidence for investigating the dangers pertaining to the use of arsenical weed-killers, and the council respectfully suggest to the Government the advisability of appointing a committee to inquire as to what changes, if any, are necessary . . . in the supply and use of poisonous weed-killers." The suggestion was not adopted; and the law in regard to the sale of this deadly substance remains practically the same as it stood after the passing of the Arsenic Act, 1851, and the Pharmacy Act, 1868, with the exception that in 1908 the restrictions were relaxed to allow of its being sold by any "licensed" person, however illiterate, for agricultural and horticultural purposes. The law as it stands under the provisions of those several statutes may be stated thus:—

Under the Arsenic Act, 1851.—Arsenic may only be sold by registered chemists and druggists under the conditions applying to poisons in Pt. I of the Sched. of the Pharmacy Act, 1868, but with the following additional precautions:—

(1) The poison, if colourless, must have mixed with it at least 1 ounce of soot or half an ounce of indigo to each pound of arsenic.

(2) If not required for use in agriculture, and the purchaser represents that the colouring would render it unfit for the purpose required, the arsenic may be sold uncoloured in a quantity of *not less than* 10 *lbs. at one time.*

(3) The person to whom arsenic is sold or delivered must be of full age, and certain additional entries must be made in the poisons register.

The above regulations, however, are *not* to apply to *arsenic contained in medicine made up according to the prescription of a legally qualified medical practitioner.*

Under the Pharmacy Act, 1868 (as amended by the Poisons and Pharmacy Act, 1908, and various Orders in Council).—Arsenic may only be *sold* by registered chemists or medical practitioners in accordance with the regulations referred to above (which, be it noted, do not apply to medicines containing arsenic supplied by a medical practitioner to his patient or contained in a prescription dispensed by a registered chemist).

There is, however, this further alarming proviso, that arsenic and preparations of arsenic used in agriculture or horticulture for the destruction of insects, etc., or for weed-killing, or as a sheep-dip, may be sold by any *licensed* person, even though he be neither a chemist nor a medical practitioner, provided the same be—

(1) Contained in a closed package or vessel distinctly labelled with a notice of the special purpose for which the preparation is intended; and

(2) Sold upon an order in writing given by or on behalf of a person, firm, or body corporate known to the vendor; and

(3) Purchased for the purpose of such person, firm, or body corporate.

The sale of arsenic by these unqualified but "licensed" persons (who are generally corn dealers, ironmongers, or seed merchants, but may be grocers or general storekeepers—the latter especially in country districts) is regulated by Orders in Council made 2nd April, 1909, and amended 11th November, 1911, and 13th October, 1920. These Orders require that arsenic sold by *licensed persons* must be—

(1) Sold in an enclosed vessel or receptacle as received from the maker of sufficient strength to withstand rough usage, securely closed, and free from leakage.

(2) Distinctly labelled with (*a*) the name of the substance, (*b*) the word "Poison," (*c*) the name and address of the seller (i.e., of the person *on whose behalf* it is sold) (*d*) a notice of the special purpose for which it has been prepared, (*e*) a legible notice that it is not to be used for any other purpose.

The transaction must also be entered in a "poisons register," where the date, name, and address of purchaser, name and quantity of the article sold, purpose for which it is stated to be required must be given and be endorsed by the signature of the purchaser, or (if he is not known to the seller) of the person known to the seller who introduces him to that seller. It will be observed that there is no prohibition here against sale to a *minor*. A chemist may not sell half an ounce of powdered arsenic to a youth under age who wants it for killing rats; but a corn dealer or storekeeper may sell a gallon of liquid arsenic or a pound of powdered arsenic made up into a packet and called "weed-killer" to any boy of sixteen whom he knows and who says he wants it for killing weeds in his father's garden! Such are the eccentricities of our legislative methods.

Incidentally it may be observed that there have been many prosecutions—and they still continue to be reported from different parts of the country—of *unlicensed* persons charged with supplying these arsenical preparations; and evidence is not wanting that there is a regular distribution of these dangerous substances going on, partly in open defiance of the law, and partly in pure ignorance arising out of the widespread notion (especially in country districts) that poisonous fruit-sprays and weed-killers may be sold by any tradesmen dealing in agricultural and horticultural necessaries so long as they are supplied in the original packages sent out by the makers.

This system of licensing of unqualified persons to sell poisons for agricultural and horticultural purposes will sooner or later have to be brought to an end. There is no safe or practical alternative. The sale of all such substances will have to be hedged round with the sensible restrictions which Parliament adopted in 1854, when the Pharmacy Act of that year was passed. Leaving arsenic out of the question for a moment, let us take a simple illustration of the futility of the licensing regulations. Every newspaper reader by this time must be familiar with the reports of poisoning by an article called "Lysol." This is a poisonous substance of the coal tar sort, its active principle being carbolic acid (phenol). It is very useful for a variety of purposes—as an antiseptic in the sick room and equally as a substance for spraying greenhouse plants or for putting in the canary's bath to keep that songster free from insects. Now, a qualified chemist may only sell "Lysol" under very strict regulations. It comes within the description of "Carbolic Acid . . . and its Homologues" in Pt. II of the Sched. to the Poisons and Pharmacy Act, 1908, and as such, is subject to the afore-mentioned strict regulations; *but* there is a proviso *excepting*—

" preparations for use as sheep-wash or for *any other purpose in connexion with agriculture or horticulture* contained in a closed vessel distinctly labelled with the word '*Poisonous*,' the name and address of the seller, and a notice of the special purpose for which the preparations are intended."

Now that, translated into quite simple language, means that anybody wanting " Lysol " for any purpose whatever can go into a shop kept by any licensed seller of agricultural and horticultural poisons and obtain unlimited quantities of this article by simply stating verbally that it is " wanted for the greenhouse." A licensed person who knowingly sold " Lysol " for *domestic* purposes would be liable to heavy penalties. Such is the legal position.

The licensing of these unqualified vendors of poison is little more than a farce. Any tradesman can get a licence to sell such things by applying for one to the local authority. True, the first application must be advertised—the merest formality—to allow of any objections being made by other traders. Once granted, renewal (at, I believe, a fee of one shilling per annum) follows automatically; and so the country is now dotted all over with vendors of arsenic, carbolic acid, nicotine, and other desperately dangerous articles who know next to nothing of their qualities and uses, who (unlike the scientifically qualified professional pharmacist whose business it is to guard himself and his clients most carefully against the abuse or misuse of poisons) are making easy the acquisition of these deadly things by all sorts and conditions of men, women and even children. What wonder that one poisoning sensation after another is exciting the attention of coroners' and police courts?

A Conveyancer's Diary.

The Vendor's right to Bid.

When property is put up for sale by public auction the general common law rule, which still obtains, is that the highest bidder is the purchaser, and that the vendor is not entitled to bid himself or to employ any one to bid on his behalf. At one time the Courts of Equity allowed the vendor to employ a " puffer " to bid, at any rate, once on his behalf so as to prevent the property being sold at a gross undervalue, unless there was an express holding out that the sale would be without reserve (*Robinson* v. *Wall* (1847), 2 Ch. 372; *Woodward* v. *Miller* (1845), 2 Coll. C.C. 279, 283). The equitable rule, however, was subject to much criticism, and eventually abolished by the Sale of Land by Auction Act, 1867 (c. 48), which provided (s. 4) that the rule of law should apply in equity and (s. 5) that the particulars or conditions of sale should state whether the sale is without reserve or not, or whether a right to bid is reserved, and that a vendor may not bid by himself or an agent when the sale is without reserve, and (s. 6) that a vendor or any person on his behalf may bid when the right to do so is expressly reserved.

The Act does not authorise a vendor to have several " puffers " at the sale nor even to employ a different " puffer " for separate lots. Only one may be employed. Nor is the mere statement that there will be a reserve price sufficient to justify the vendor or an agent on his behalf bidding; the power to bid must be expressly reserved (*Gilliat* v. *Gilliat* (1869), L.R. 9 Eq. 60).

It should also be noted that conditions as to bidding must be strictly observed so that when a vendor reserves the right to bid once he is not justified in bidding more than once, even though his bids are for less than the reserve price (see *Parfitt* v. *Jepson* (1877), 46 L.J., Q.B. 529).

The common condition of sale now in use states that there will be a reserve price, and that the vendor reserves the right to bid by himself or his agent. This condition enables a vendor or an agent for him to bid up to the reserve price, but not beyond it (*Nattey* v. *Salmon* (1853), 1 W.R. 240; *Heatley* v. *Newton* (1881), 19 Ch. D. 326). Of course it seldom happens that a vendor desires to bid beyond the reserve price. Usually he fixes the reserve at which he is prepared to part with the property and authorises the auctioneer to bid or employ someone to bid up to that price. But vendors have been known whilst the auction is proceeding and competition appears to be keen to bid themselves or induce a friend to bid for them, with the result that the purchaser to whom the property is knocked down could repudiate the contract.

If a vendor should really desire to bid beyond the reserve price, he may expressly reserve the right to do so, but he would hardly be likely to find anyone to bid against him. To sum up: If the sale is without reserve the vendor may not bid himself or by an agent. If there is a reserve price the vendor may not bid or employ an agent to bid even up to the reserve price unless the right to do so is expressly reserved, and the reservation of such a right will be deemed to authorise a bidding up to the reserve price only unless it is stated that it is to extend beyond that price.

Whilst on the subject of the reserve price, it may be mentioned that if an auctioneer who is instructed to offer property for sale with a reserve price should knock it down to a bidder at less than the reserve and sign a contract in the usual way, the vendor is not liable (*McManus* v. *Fortescue* [1907] 2 K.B. 1). But if the vendor fixes a reserve price and the auctioneer advertises the property without reserve and sells at less than the reserve, whilst the vendor is not liable, the auctioneer will be liable for breach of an implied warranty of authority (*Warlow* v. *Harrison* (1859), 1 El. & El. 309). But it seems that this would not be so if the identity of the vendor is disclosed or sufficiently indicated (*Mainprice* v. *Westley* (1865), 6 B. & S. 420).

It is usual in conditions of sale to state that no bidding shall be retracted, but it is very doubtful whether such a condition could be enforced. A bid is no more than an offer to purchase at the price named, and until that offer is accepted by the auctioneer knocking down the property to the bidder, there is no contract. The acceptance of the bid as such does not seem to be sufficient as the acceptance is conditional upon no higher bid being made and not an unconditional acceptance of the offer to purchase.

Landlord and Tenant Notebook.

Farm Tenants: Compensation for Disturbance.

One of the most difficult sections to construe of any Act of Parliament passed during recent years is s. 12 of the Agricultural Holdings Act, 1923, which provides for the payment of compensation by the landlord of an agricultural holding to a tenant who is turned out of his farm in certain circumstances. The section is so long and complicated and its provisoes are so confusing, that it is not surprising to find that a good deal of misunderstanding exists—even among lawyers—as to when and how this " compensation for disturbance " may rightly be claimed. An effort to clear the position by reducing it all to simple and uninvolved language may therefore be helpful.

The section begins by saying that where the tenancy of a holding terminates by reason of a notice to quit given by the landlord, and in consequence of such notice the tenant quits the holding, then the tenant is to be entitled to compensation unless he has done certain things he should not have done, viz.:

(*a*) Neglected to cultivate his farm properly.

(*b*) Failed to pay his rent or perform tenancy obligations

(*c*) Breach of covenant, causing injury to landlord's interests.

(*d*) Bankruptcy or compounding with creditors.

(*e*) Failed to agree to arbitrate as to future rent.

(*f*) Refused to sign written agreement as to terms of tenancy.

But the landlord who wants to avoid having to pay compensation for disturbance for any of these reasons must state what the reason is when he gives the notice: and this statement *must be embodied in the notice itself*. If the landlord fails to frame his notice thus, he will remain liable to pay compensation. It has, we think, been held that to state the reason in a separate letter is not sufficient compliance with the section; but, in any case, it is submitted that such is the legal position. The landlord may, however, escape liability to pay compensation if he offers in writing to withdraw his notice and the tenant *unreasonably* refuses to allow it to be withdrawn: but such offer to withdraw must be unconditional: see *Perrett and Bennett-Stanford's Arbitration* [1922] 2 K.B. 592.

But in order to entitle his tenant to claim compensation for disturbance it is not always necessary that the landlord himself should give notice to quit. If a tenant thinks he is paying too much rent he may under sub-s. (3) demand, by writing, an arbitration as to the rent to be paid after the next date at which he could, by giving due notice, quit: and if the landlord refuses (or within a reasonable time fails to agree) to arbitrate, the tenant may, in turn, give notice to quit, stating this as a reason, and he will secure compensation for disturbance—but *not* if a landlord prove any of the "disentitling" facts mentioned above under (*a*), (*b*) or (*c*). Alteration of rent, however, may not recur at intervals of less than two years.

The amount of compensation recoverable by a tenant in respect of disturbance is to be "a sum representing such loss or expense directly attributable to the quitting of the holding as the tenant may unavoidably incur upon or in connexion with the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock on or used in connexion with the holding, and shall include any expenses reasonably incurred by him in the preparation of his claim for compensation," but exclusive of the actual costs of an arbitration. No allowances are to be made for things sold unless the landlord has first had a reasonable opportunity of valuing them: and no compensation is payable at all (*a*) unless the tenant has given notice *in writing* of intention to claim at least a month before his tenancy ended, or (*b*) where the tenant has died within three months before the date of the notice to quit, or (*c*) in certain other events specified in detail in sub-s. (7). Where the loss sustained by the tenant does not exceed the amount of one year's rent, that one year's rent is in any event to be the minimum awarded: see *M'Harg* v. *Spiers* [1924] S.C. 272. On the other hand, the maximum amount recoverable is the equivalent of two years' rent of the holding (sub-s. (6)). The tenant must prove some loss (even though it be trifling) or his claim will fail (*Minister of Agriculture* v. *Dean* [1924] 1 K.B. 851).

There are many side issues arising out of the foregoing provisions. Thus the question may arise as to whether a tenant has failed to cultivate his farm properly, i.e., "according to the rules of good husbandry." The meaning of that expression is defined in s. 57 of the Act, but as it must in every case be a question of fact, sub-s. (2) of s. 12 provides machinery for its decision. The landlord may at any time apply to the agricultural committee for the area in which the holding is situate for a certificate that the tenant is not cultivating the holding according to the rules of good husbandry. The committee will hear both sides and decide whether or not to grant the certificate. If they do, it is conclusive, subject to the right of either side to appeal to an arbitrator. Among the recent cases which have been decided by the Court, arising out of this section and s. 16 (in addition to those mentioned in the course of this short review) are the following:—

Bradshaw v. *Bird* [1920] 3 K.B. 144, which decided that the person liable to pay compensation is the recipient of the rents and profits at the time the tenancy is determined and not necessarily the landlord who gave the notice to quit. Extended by *Dale* v. *Hatfield Chase Corporation* [1922] 2 K.B. 282, to a purchaser after the date fixed for completion.

Clifford v. *Lowther* [1927] 1 K.B. 130, decided that arbitration is not compulsory where the matters in dispute are outside the scope of the Act, but that such matters may be dealt with by ordinary action at law. See also as to this *Hendry* v. *Walker* (1927), Sc.L.T. 333, where the tenant remained unlawfully in possession; and *Mansfield* v. *Robinson* [1928] 2 K.B. 353, where the procedure under s. 16 of the Act of 1923 was further discussed, and it was also held that where parties make their own agreements as to costs, these agreements are valid and will be enforced.

Westlake v. *Page* [1926] 1 K.B. 298, decided that where a demand is made by a tenant for arbitration as to the rent to be paid for the holding as from the next ensuing date at which the tenancy could have been terminated by notice to quit, this demand must precede the notice to quit by a reasonable time, and would be bad if made by the same letter as contains the notice to quit: see s. 12, sub-s. 5 (*a*). The same case determined that where a tenant holding two or more holdings gets notice to quit one of them, but not the other, sub-s. (8) does not apply if he is owner of one of the farms. It is necessary therefore that he must be occupier under a contract of tenancy, i.e., he must hold not own.

Our County Court Letter.

BANKRUPTCY PROCEEDINGS AND CONCURRENT REMEDIES.

THE need for exercising a remedy in order to preserve a parallel right was shown by a recent case at Dewsbury County Court, in which the debtor's landlord applied by motion against the trustee, asking that a proof of debt rejected by the trustee should be admitted. The claim was for six months' rent as a preferential creditor, but it was contended that the landlord was not entitled to the benefit of the Bankruptcy Act, 1914, s. 35 (1) by reason of his not having levied a distraint. The sub-section entitled the landlord to distrain after the bankruptcy for six months' rent accrued prior to the adjudication, but not for rent payable subsequent to the distress, although the landlord may prove for the surplus for which the distress may not have been available. His Honour Judge Woodcock, K.C., observed that not only was no distraint levied, but—on the actual date of the confirmation of the trustee's appointment by the Board of Trade—the petitioning creditor had entered into an agreement to act as caretaker of the goods for 10s. a week. It would be quite wrong to say that because the trustee, acting on behalf of the creditors, had admitted a part of an alleged preferential claim—under a mistake of law—he was thereby estopped from saying that the claim was not admissible. In spite of having admitted the claim as a preferential debt to a certain extent, he was not liable to admit anything further, and the motion was accordingly dismissed with costs.

The exercise of concurrent remedies was held not to be an abuse of the process of the court in *In re a Debtor* [1929] 1 Ch. 170. The petitioning creditor had obtained judgment for rent, and on non-compliance with a bankruptcy notice he not only presented a petition, but served notices under the Law of Distress Amendment Act, 1908, s. 6, upon the debtor's under-tenants, requiring them to pay their rents direct to himself as superior landlord. A receiving order was made by Mr. Registrar Warmington, but the debtor appealed on the ground that the petitioning creditor, by serving the above notices, had precluded himself from proceeding in bankruptcy. Lord Hanworth, M.R., rejected the arguments that the debtor should not be harassed under two modes of procedure, or that the latter afforded inconsistent remedies, and he held that the Act of 1908 simply provided a remedy to prevent loss by saving assets from going to the

debtor. Lords Justices Lawrence and Russell agreed that the action of the petitioning creditor had not prevented the debtor from discharging his debts and complying with the bankruptcy notice, and the appeal was therefore dismissed.

This decision followed *In re Renison* [1913] 2. K.B. 300. in which the petitioning creditor, having recovered judgment, obtained a garnishee order absolute, and on non-compliance with the latter she issued a bankruptcy notice. The debtor applied to set this aside, but the Registrar at Stockport County Court dismissed the application, and the debtor appealed to the Divisional Court. Mr. Justice Phillimore (as he then was) held that, although a creditor cannot issue a second execution while a first is pending, the fact of his obtaining a garnishee order did not preclude him from issuing a bankruptcy notice. The above garnishee order had not impeded the debtor in the payment of his debts, as nothing had been realised by means of it, and the duty to value a security existed only to benefit the other creditors (and not the debtor) so that it was not necessary to give credit for the amount of the garnishee order. Mr. Justice Horridge concurred in dismissing the appeal.

It is to be noted from the last-named case that *In re Sedgwick* (1888), 37 W.R. 72, is still an authority for the proposition that the court must consider any evidence that the creditor has in fact prevented the debtor from complying with the bankruptcy notice. The actual decision, however, was to the effect that the bankruptcy notice could not be set aside, although the creditor had previously obtained a charging order on the debtor's shares.

Practice Notes.

THE MODERNISATION OF ELECTRICAL EQUIPMENT.

(*Continued from* 73 Sol. J., p. 463.)

II.

The sufficiency of the insulation was considered in a recent case at Derby, in which the defendants were the Derbyshire and Notts Electric Power Company, Limited, although there was no suggestion that the equipment was out of date. The contractors, Balfour, Beatty and Company, Limited, had been engaged in duplicating a cable to the Celanese works, and one of their employees had been seen brushing down brick dust after the work was finished. He was shortly afterwards found unconscious (his death having followed in hospital), and a burn was found on a live cable where a joint had been wrapped. The contractors' foreman stated that he had confidence in the tape, and would not mind brushing past a wrapping of eight layers, although he would not grasp it. If a temporary guard had been erected, its removal would have been necessary on the completion of the work, and the work was actually finished at the time of the accident. The deceased, while sweeping the insulators, had probably struck and fractured the tape with the back of the brush, and it was in excess of his authority to clean insulators on a live cable. The defendants' engineers stated that a layer of Empire tape would stand up to 4,000 or 6,000 volts, and, although the cable joint in question was carrying 6,600 volts, it was wrapped in six or eight layers. The magistrates upheld a submission that there was no case to answer, and the charges of contraventions of the Factory Acts accordingly failed.

THE CONTROL OF THE FEEBLE-MINDED.

The disadvantage of adopting a procedure analogous to a remand in custody was recently illustrated at Walsall. The proceedings were commenced in June last, and had been twice adjourned in order that the authorities might be able to present a petition for the defendant's son to be certified under the Mental Deficiency Act, 1913. The actual charge against the mother was that she had assisted her son to escape or break the conditions of his licence whilst a patient at Beacon Lodge (a prescribed place of safety), but the result of the petition had been that the mental defective was placed in the care of his parents for twelve months. It was therefore submitted on behalf of the defendant (his mother) that the patient should not have been deprived of his liberty without justification, and that the authorities might be sued for damages. The chairman suggested that the order on the petition had brought the case to an end, but it was ambiguously stated on behalf of the Corporation that they regarded the matter as serious, though they did not desire to press the summons. The bench decided that there had been a technical offence, and ordered payment of 5s. costs, as the parents' action was not justified by any indignation they may have felt. It is to be noted that, under the above Act, s. 8 (3), where a court directs a petition to be presented, the person involved may be ordered to be detained in an institution or place of safety. There is, therefore, no invasion of the liberty of the subject, even if he be afterwards released to the care of relatives, and an action for damages (as suggested above) would have small hope of success.

Obituary.

Mr. JOSEPH SYKES.

One of the oldest practising solicitors in Newport (Mon.), Mr. Joseph Sykes, who was admitted in 1882, died there on Thursday, the 19th inst., at the age of 70. A native of Stockport, he was educated at Lindon Grove School, Alderley Edge, and Owen's College, Manchester. For six years after his admission he acted as managing clerk to a firm of solicitors in London, and going to Newport in 1888, purchased with Mr. G. M. G. Glasier the practice of Mr. C. M. Bailhache, afterwards Mr. Justice Bailhache. Mr. Sykes was an active member of the Ancient Order of Foresters, and in his younger days he was a keen cyclist, tennis player and oarsman, and played a good game of billiards. His wife and one son survive him. Another son was killed in the Great War, whilst serving with the 2nd Battalion Monmouthshire Regiment. H.

Books Received.

Ministry of Health. Report of Departmental Committee on the Training and Employment of Midwives. 1929. H.M. Stationery Office. 1s. net.

Local Government, 1928. Comprising all Statutes, Orders and Cases, and numerous Departmental Decisions affecting Local Authorities. F. C. Alworth. Medium 8vo. pp. xv. 625 and (Index) 16. London: Butterworth & Co., Ltd. 42s. net.

Jones' County Court Guide. A Practical Manual of the Ordinary Procedure in these Tribunals, including practical information upon Evidence, Special Defences, etc., with Appendices of Tables of Fees, etc., by Charles Jones. Sixth Edition. Revised and brought up to date by J. Prys Williams. Crown 8vo. pp. xvi and (with Index) 391. 1929. London: Effingham Wilson. 10s. 6d. net.

The Political Censorship of Films. Ivor Montagu. Crown 8vo. 44 pp. 1929. London: Victor Gollanz, Ltd. 1s. net.

Epitome of the Principal Changes effected by the Companies Act, 1929 (*exclusive of Provisions relating to Companies Limited by Guarantee, and Winding Up*). W. H. Behrens, Solicitor. Demy 8vo. 36 pp. London: Waterlow & Sons, Ltd. 2s. 6d. net.

Graya. A Magazine for circulation among the Members of Gray's Inn. No. 4. Easter Term, 1929.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Apportionment.

Q. 1730. A has recently died, leaving an estate of less than £50, and having made a will, of which B is sole executrix and universal legatee. A was in receipt of an annuity of £52 per annum, from which tax was deducted at the standard rate. The tax was recovered by A annually. From the date of the last claim until the date of death the tax unclaimed amounted to £3 15s. The inspector of taxes contends that, on the death of A, this tax becomes capital and that it cannot be reclaimed by B as legatee or at all in any circumstances. His authority is the Apportionment Act of 1870. Is the attitude adopted by the inspector of taxes justified ?

A. The inspector of taxes, in seeking to apply the Apportionment Act, would appear to be dealing correctly with the matter. There is one point, however, which is of the utmost importance in this connection: the date of payment of the income has no effect on the apportionment—the period of *accrual* is the thing to be regarded. This may assist in the case under review, and it is a point which is frequently lost sight of by officials, and sometimes by practitioners.

Pawnbroker—Pledge of Title Deeds—Position—Realisation of Security.

Q. 1731. A duly licensed pawnbroker client of mine lends to a customer £15 at reasonable interest and as security takes deeds of customer's house and attaches usual pawnbroker's ticket. The ticket is marked with the customer's name—Amount £15—Deeds of house. There is no identification of house on the pawnticket, but client holds the title deeds and has attached the pawnticket to the conveyance to the customer. There are considerable arrears. What process must client adopt to realise security ?

A. We do not think the pawnticket is material as it is not, presumably, signed as required by s. 40 of the L.P.A., 1925, and in any case does not contain all the terms of the loan. We express the opinion that there is an ordinary equitable mortgage by way of deposit of title deeds without any written memorandum of deposit. The method to enforce the security is foreclosure. Under s. 91 of L.P.A., 1925 (which replaces C.A., 1881, s. 25), the pawnbroker can ask for a sale in the action although there is no memorandum of deposit (*Oldham* v. *Stringer* (1884) 51 L.T. 895). We advise that an effort should be made to get a legal charge or a memorandum under seal so as to obtain a power of sale.

Terms of Service of Club Steward.

Q. 1732. In 1928 the X club advertised for a steward. A replied to the advertisement, and stated that he was willing to take the post at a salary of £Y per week for the first year, with a substantial increase thereafter. In due course the secretary of the club notified A by letter that his application had been accepted. A commenced his duties on 14th June, 1928. On 13th May, 1929, A received fourteen days' notice to terminate his employment. During his period of service A was allowed no holidays save Christmas Day and one half-holiday per week. The X club sells intoxicants and tobacco. Your valued opinion is asked on the following points:—

(1) Do the letters of application and acceptance above referred to constitute a yearly hiring, and if so, are they sufficient to satisfy the requirements of s. 4 of the Statute of Frauds ?

(2) Do you consider that A comes within the purvue of the Shops Act so as to entitle him to thirty-two whole weekday holidays per annum in view of the fact that he was engaged in serving intoxicants. If your answer to this query is in the affirmative please state whether A has any civil remedy ?

(3) A states that he has read in a book on the "Management of licensed houses" that one engaged in the sale of liquor is a domestic servant, but I can find no authority on this point. Please state whether A's contention is correct.

Relevant authorities on these points would oblige.

A. (1) The letters constitute a yearly hiring, but are insufficient to satisfy the Statute of Frauds unless they specify the date upon which the services were to commence. See *Elliott* v. *Roberts* [1912] 29 T.L.R. 436.

(2) A does not come within the Shops Act, 1912, s. 19 (1), as a club only deals with its own members and does not carry on a retail trade, i.e., with the public.

(3) A's proposition may be correct to a limited extent, e.g., with regard to workmen's compensation and national insurance, but the contention is too general in its nature for its correctness to be checked. The answer depends on circumstances such as whole or part-time duties, conditions of residence, etc., and in any case club's servants are on a different basis from those in licensed houses open to the public.

Apportionment of Valuation on De-rating.

Q. 1733. A hereditament used partly as a furniture factory, partly as a repair shop and partly as a retail shop, was recently before the assessment committee on appeal from the refusal to include it in the List of Industrial Hereditaments for De-rating. Before the assessment committee the following facts were proved and accepted: (1) Superficial floor space of industrial part, three-fifths; of non-industrial, two-fifths of the whole. (2) Wages paid in the industrial part, four-fifths; in the non-industrial part, one-fifth of the whole. (3) Hands employed in the industrial part, two-thirds; in the non-industrial part, one-third of the whole. (4) Turnover in the industrial part, two-thirds; in the non-industrial part, one-third of the whole. On those facts the assessment committee held, that the hereditament was primarily industrial, and adjourned the case for the appellants and the district valuer to agree an apportionment. In fact the retail shop and show rooms, part of the premises, are stone built and tiled and comprise the frontage, while the factory premises are mainly built of galvanised iron. The district valuer suggests that the figures as to floor space, wages, hands employed, and turnover are irrelevant when it comes to apportioning the rateable value, as the apportionment is a question of valuation only. He suggests that the non-industrial should be reckoned as two-thirds the rateable value and the industrial one-third. We have argued that as the assessment committee have stated definitely that the primary occupation of the premises is industrial, at least 50 per cent. of the rateable value must be imputed to the industrial portion. Which attitude do you consider to be correct and are there any authorities ?

A. The contention on behalf of the appellants is *primâ facie* the logical result of the ruling of the assessment committee, but on consideration it appears that the issues are different in the two aspects of the case. By analogy to the rule that assessments must be on the value of the premises, and not on the profits earned therein, it appears that the district valuer's attitude is correct. The description of the premises indicates that the non-industrial portion comprises a substantial building with a valuable frontage, while the industrial portion is a temporary erection on back land. The suggested apportionment of two-thirds and one-third is, therefore, reasonable, no authorities having yet been reported.

Notes of Cases.

Probate, Divorce and Admiralty Division.

In the Estate of Bellis; Polson *v.* Parrott (Hodson intervening). Lord Merrivale, P. 22nd April.

PROBATE—CAPACITY OF TESTATRIX—*Primâ facie* EVIDENCE OF GENERAL CAPACITY—PROOF OF SINGLE ILLUSION OR MISTAKE OF MEMORY IN REBUTTAL—COSTS.

In this probate action the plaintiff, Mrs. Theodora Ethel Polson, the younger daughter of the testatrix, Mrs. Belliss, propounded a will, dated 23rd July, 1927, and two codicils thereto. The defendants, who were executors of an earlier will, dated 3rd July, 1922, put the plaintiff to proof of the 1927 will and codicils. The intervener, Mrs. Mary Elizabeth Hodson, elder daughter of the testatrix, alleged that the will of 1927 and codicils were not properly executed, and that the testatrix was not of sound mind, memory and understanding and did not know and approve of their contents. The facts and the arguments appear sufficiently from the judgment.

Lord MERRIVALE, P., in the course of delivering a considered judgment, said that the litigation arose out of the testamentary dispositions of Mrs. Belliss, a widow since 1909, who died in her ninety-fourth year. The common characteristic of her husband's and her own testamentary dispositions had been the principle of equality of benefits as between their two children, the plaintiff, Mrs. Polson, and the intervener, Mrs. Hodson. The family solicitors had prepared the long series of wills produced at the hearing, dated before 1927, the executors being, during many years, the defendants, Mr. Parrott and Mr. Huskisson, two relatives, with whom Mrs. Belliss had until 1927 close business relations and intimate friendship. In July, 1927, Mrs. Belliss summoned to her residence Mr. Leonard Gocher, a solicitor whom she had never previously employed, and he prepared, under her instructions, the will dated 23rd July, 1927, and later codicils dated 25th August, 1927, and 4th February, 1928, which were in question. She enjoined upon Mr. Gocher strict secrecy. The purpose of the new will of 1927, as of many preceding wills, was to leave the plaintiff and the intervener and their families upon a footing of equal benefits, but in truth and fact the will of 1927 did not restore equality. The intervener alleged as the substance of her case that the will of 1927 was made under a mistaken impression, amounting to a delusion, that for years past her mother had given to her daughter, the intervener, more financial assistance than to her daughter, the plaintiff. Having regard to the unity of the considerations which arose when mistake was said to amount to delusion, and when the mistake so described was relied upon as evidence of mental unsoundness or testamentary incapacity, it was necessary to consider closely the actions of the testatrix, the position of the parties, and the explanatory clause in the 1927 will, which was as follows: "I desire to place on record that I have for years given to my daughter Mrs. Hodson more financial assistance than to her sister and this has been present to my mind when framing the provisions of this my will, and I have sought to put matters on a fair basis as between the two sisters." (His lordship then reviewed the extent of the testatrix's benefactions to her two daughters during her lifetime, which were, in fact, approximately on an equal basis.) So far as the evidence went it supplied cogent *primâ facie* evidence of testamentary capacity. The case against the 1927 will was presented under two heads. It was contended that Mrs. Belliss was actuated in the whole transaction by an unfounded belief amounting to a delusion. It was also argued that the evidence showed a failure of memory on the part of Mrs. Belliss in the very matter out of which her decision to make a new will arose—namely, her determination that her daughters and their respective families should be equally benefited by her dispositions.

There had been no suggestion that Mrs. Belliss had embodied in her explanatory clause anything other than what she sincerely believed. The question, again, was not whether the will was avoided by a mistake of fact. These mistakes of fact as to previous persons or property would not stand in the way of probate. Even in the jurisdiction of the court in equity mistakes of fact could only be depended on to a limited extent as ground for rectification or modification of acts intentionally and definitely done. The crucial subject of inquiry in the case were these: Did Mrs. Belliss make her will of 1927 revoking her will of 1922 under a supposition that the re-apportionment made by the later will was required to restore equality, and was this supposition an insane delusion upon which her testamentary action of 1927 proceeded or an illusory belief of such a character as must be held to displace the *primâ facie* proof of testamentary capacity? Authorities could be cited extending over a very long period to illustrate the meaning of the words familiarly used in the matter of probate to set the standard of testamentary capacity, "the testator must be of sound mind, memory and understanding." His lordship referred *inter alia* to *Coombe's Case* (1606), Moore, K.B. 759; *Waring* v. *Waring*, 6 Moore, P.C. 341; *Bankes* v. *Goodfellow*, L.R. 5 Q.B. 549 . . . Memory was the faculty which was peculiarly in question in the present case. The judgment of the Privy Council in *Harwood* v. *Baker*, 3 Moore, P.C. 282, illustrated the mode in which the test of memory was applicable. It was a case where there had been exclusion of a relative, and the decisive question was formulated thus: Was the testator "capable of recollecting who those relations were, of understanding their respective claims upon his regard and bounty, and of deliberately forming an intelligent purpose of excluding them from any share of his property? . . ." In everyday practice in probate cases what was sought to be ascertained was: Was the testator possessed of the degree of power in mind, memory and understanding which was needful for doing rationally what was in fact done? Mrs. Belliss in July, 1927, did many remarkable things. Concurrently with her decision to make a new will she summoned from a distance a solicitor with whom she had had a casual conversation about a legal topic some years before, but who was quite uninformed as to her family and her affairs. She set about the business under the apparent belief that secrecy was essential to ensure the intended effect. A memorandum book as originally kept by Mrs. Belliss showed benefits to the Hodsons to the end of 1918 at £5,320. As it stood the entry had been altered and read, £25,320—£20,000 more—and the same figure of £25,320 had been written in and carried forward to 1919. The evidence was that that change was in the handwriting of Mrs. Belliss. When the figures were altered was not shown. He (his lordship) saw no reason to suppose that Mrs. Belliss had entertained before the end of 1926 any doubt as to her substantially equal treatment of her daughters. The entry threw a curious light on the insistent assertion of Mrs. Belliss in the summer of 1927: "Mary has had £20,000 more than Ethel." Looking at the facts as a whole it appeared clear that in the summer of 1927 there had sprung up in Mrs. Belliss' mind an entirely illusory belief which supplied the main motive for her decision to call in Mr. Gocher, and with his help to make the new will. Further, he (his lordship) was satisfied that her memory had so failed by that time that she could no longer call to mind the facts of her past relations towards her daughters so as to displace illusory notions and beliefs. He must therefore find that Mrs. Belliss had not, on or after July, 1927, the sound memory which in testamentary matters was essential to a disposing mind and understanding. He therefore pronounced against the will and codicils of 1927 and 1928. Costs of both sides ought to come out of the estate and to be such costs as fairly represented the expense to which the parties had necessarily been put. It had been a proper case for the separate representation of the executors of the 1922 will, and

they would have leave to carry in their costs in the administration of the estate.

COUNSEL: *Cotes-Preedy*, K.C., and *H. B. D. Grazebrook*, for the plaintiff; *Noel Middleton*, for the defendants; and *Bayford*, K.C., and *Hon. Victor Russell*, for the intervener.

SOLICITORS: *Ford, Lloyd & Co.*, for *Leonard Gocher*, Birmingham; *Church, Rendell, Bird & Co.*, for *J. B. Clarke and Co.*, Birmingham; *Pennington & Son*.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Societies.

The Law Society.

FORTY-SIXTH PROVINCIAL MEETING.

The forty-sixth Provincial Meeting will be held on Tuesday and Wednesday, the 1st and 2nd October, 1929, at the Town Hall, Bournemouth, Mr. Walter Henry Foster (President) in the chair.

The following will be the course of procedure:—

TUESDAY, 10.30 a.m.—The proceedings will commence with the President's address, after which the following Papers will be read:—

"The Position of the Articled Clerk to-day."—Edward Bramley, M.A., LL.D. (Sheffield).

"The Companies Acts."—E. L. Burgin, LL.D. (London).

"Safeguarding the Investor in Public Companies."—C. L. Nordon, LL.B. (London).

"The Rise of Bureaucracy."—H. G. Wedd, B.A. (Langport).

"Undercutting by Building Societies and the Remedy."—Walter G. Beecroft (Leigh-on-Sea).

WEDNESDAY, 10.30 a.m.—

"Some Differences between English and Scottish Law."—R. G. Pollock (Derby).

"The Profession of the Law."—Frank A. Graham (London).

"The Solicitors Acts, 1888 and 1919."—E. R. Cook (London).

University of London, University College.

SESSION 1929-30.

The session opens at University College on Monday, the 7th October. On that day the Provost and Dean will receive day students of the Faculty of Laws from 10 a.m. till 1 p.m., and evening students from 6 till 7 p.m.

Among the public lectures that have been arranged for the first term are the following: Three lectures on "English Parties and Foreign Policy in the Eighteenth Century," by Sir Richard Lodge, on Fridays, at 5.30 p.m., beginning 1st November; Four lectures on "The Elizabethan Parliament," by Professor J. E. Neale, on Thursdays, at 5.30 p.m., beginning 17th October; "The Origins of the Legal Profession in England," by Mr. H. J. Cohen (Chairman, The Right Hon. Sir Edward Clarke, K.C.), on Friday, 18th October, at 5.30 p.m.; and six lectures on "Momentous Lawsuits and Trials in various countries from Classical to Modern Times," by Professor J. E. G. de Montmorency, on Thursdays, at 5.15 p.m., beginning 14th November.

The complete programme of these and other lectures open to the public without fee or ticket may be had on application to the Secretary, University College, London, W.C.1. A stamped addressed envelope should be enclosed.

Hampshire Law Society.

The Trustees of the Ford Law Scholarship Fund for Hampshire have awarded the prize for the year ended 31st July, 1929, to Mr. Herbert Morgan Gammans (Portsmouth), who was articled to Mr. George Coffin of the firm of Messrs. Webber and Coffin, solicitors, of that town. The prize is awarded to the articled clerk in Hampshire who in the opinion of the Trustees is considered most worthy on the result of the Final Examination for the year of The Law Society.

Legal Notes and News.

Honours and Appointments.

Mr. G. F. THOMPSON, solicitor, Walsall, has been appointed Deputy Town Clerk of Ramsgate. Mr. Thompson was admitted in 1929.

The Lord Chancellor has appointed Mr. THOMAS WITHERIDGE LANGMAN, Barrister-at-Law, to be the Judge of the County Courts on Circuit No. 17 (Lincolnshire) in the place of His Honour Judge Chapman, who has been appointed to Circuit No. 15 (York, etc.). Mr. Langman was called to the Bar in 1910.

Mr. DAVID THOMAS GRIFFITHS, solicitor, Deputy Town Clerk of the Metropolitan Borough of Southwark (whose appointment as clerk to the Uxbridge Urban District Council was announced in THE SOLICITORS' JOURNAL on the 24th August last), has now been appointed Town Clerk to succeed Mr. Percy H. Gray, Barrister-at-Law, who has retired in consequence of ill-health. Mr. Griffiths was admitted in 1916.

Professional Announcements.

(2s. per line.)

Messrs. Withers, Bensons, Currie, Williams & Co., of Howard House, 4, Arundel Street, Strand, W.C.2, announce that Mr. W. L. M. Benson, who had been a partner in the firm for many years, retired on the 1st June, last, and that on the 1st October, 1929, Mr. Kenneth Macrae Moir, formerly scholar of King's College, Cambridge, will join the firm as a new partner.

Mr. Moir has hitherto practised under the style of Hickson and Moir with his father, Mr. Macrae Moir, who now proposes to retire.

The two firms of Withers, Bensons, Currie, Williams & Co., and Hickson & Moir will accordingly be amalgamated, and the joint business will be carried on as from Tuesday next, the 1st October, at the above address under the style of Withers & Co., the partners being Sir John Withers, Mr. Thomas Withers, Mr. Geoffrey Bridgewater Williams, Mr. Kenneth Macrae Moir, Mr. Francis Covell and Mr. William Hereward Charles Rollo. (Telephone: Temple Bar 2365).

JURISDICTION OF PRIVY COUNCIL.

The Free State Government is, says *The Times*, much disappointed by its failure to get rid of the Privy Council's jurisdiction through the operation of the Optional Clause of the Permanent Court. It will not relax its efforts, and new plans will be laid as soon as Ministers have returned to Dublin for the work of the coming Session.

It is understood that on this occasion the Free State Government will take a hint from South Africa, whose delegate at Geneva favoured the establishment of a special Court for the settlement of disputes between members of the British Commonwealth. It is probable that this proposal will be initiated by the Free State Government or, at any rate, will have its strong support at the next meeting of the Imperial Conference. Such a Court would not be open to the main criticism which the constitutional purists here make against the Privy Council. Their argument is that the Judicial Committee is not an Imperially democratic body, since it is founded on the will of only one member of the British Commonwealth but imposes its jurisdiction on all.

PENAL SERVITUDE FOR SOLICITOR.

Sentence of three years' penal servitude was passed by Mr. Justice Hawke at the Old Bailey on Friday in last week, on Charles Vincent Whitgreave, sixty, said to be a well-known solicitor in London and Hastings, who pleaded guilty to the misappropriation of money belonging to clients.

Mr. Percival Clarke, prosecuting, said that Whitgreave, who was admitted a solicitor in 1896, became an executor and trustee under the will of Father Bannin, of the Italian Church, Hatton Garden. Father Bannin died in 1925, and, after various legacies, left the residue of his estate to the trustees of the Italian Church, Hatton Garden.

In 1925 Whitgreave paid £500 to them, and that was all they received. Proceedings were started against him in connexion with the matter, and in June, 1927, he was arrested for contempt of court, and sent to Brixton gaol.

Mr. Justice Hawke said that he would be failing in his duty if he passed a lenient sentence. He took into consideration that Whitgreave had been in Brixton gaol for contempt of court, but that was a very different form of imprisonment from that which he would now undergo.

THE FUTURE OF TEMPLE BAR.

The death of Admiral of the Fleet Sir Hedworth Meux has again brought into prominence the question of the future of Temple Bar.

It will be remembered that Temple Bar stood at the junction of the present Strand and Fleet-street, near the Law Courts. A bar is first mentioned here in 1301, but the present Temple Bar was designed by Sir Christopher Wren, and took the place of an older structure in 1672. Temple Bar was removed in 1878, and placed in Farringdon-road, but in 1887 the City of London gave it to Sir Henry Bruce Meux, who had it removed and re-erected at the entrance to Theobald's Park, Hertfordshire. The work of re-erection was completed in the following year. Some eight years ago Sir Hedworth Meux was asked by the London Society if he would be willing to consider a proposal for the return of the structure, but he replied that he did not believe that there was an overwhelming desire for its return.

We understand that its re-erection at the Embankment end of Middle Temple-lane in London is again under consideration.

A pedestal, surmounted by a dragon or "griffin," now marks the old site of Temple Bar. When the Sovereign is about to enter the city in state, whether by Temple Bar or elsewhere, the Lord Mayor, in accordance with ancient custom, presents the sword of the city to him, and His Majesty at once returns it. Formerly the bar or gate was closed against the Sovereign until this ceremony had been carried out.

THE ROAD BILL AND THIRD PARTY INSURANCE.

The Royal Commission on Traffic, which has already produced one report, will, we understand, resume sitting on Wednesday next, 2nd October.

It is intended to proceed at once with the part of the Commission's inquiry dealing with the licensing of vehicles, and the report will probably be in the hands of the Minister of Transport by the end of October. As soon as he has this second report it is expected that Mr. Herbert Morrison will complete drafting the Road Bill which the Government intends to introduce.

One of the recommendations of the Royal Commission, which it is believed will be included in the bill, is that to compel motorists to insure against third party risks, which we think, in the interests of all, is a statutory provision long overdue.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (26th September, 1929) 6½%. Next London Stock Exchange Settlement Thursday, 10th October, 1929.

	Middle Price 25th Sept.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	81¾	4 17 10	—
Consols 2½%	53	4 14 4	—
War Loan 5% 1929-47	101⅛	4 18 10	—
War Loan 4½% 1925-45	93½	4 16 3	5 2 0
War Loan 4% (Tax free) 1922-42	99¾	4 0 2	4 0 6
Funding 4% Loan 1960-1990	84¾	4 14 5	4 16 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	91½	4 7 5	4 6 6
Conversion 4½% Loan 1940-44	94	4 15 9	5 1 6
Conversion 3½% Loan 1961	72¾	4 16 3	—
Local Loans 3% Stock 1912 or after	60½	4 19 2	—
Bank Stock	240	5 0 0	—
India 4½% 1950-55	85	5 5 11	5 10 6
India 3½%	64½	5 8 6	—
India 3%	55½	5 8 1	—
Sudan 4½% 1939-73	92	4 17 9	4 19 0
Sudan 4% 1974	83	4 16 5	4 19 0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years)	82	3 13 2	4 4 0
Colonial Securities.			
Canada 3% 1938	85	3 10 7	5 2 0
Cape of Good Hope 4% 1916-36	91	4 7 11	5 12 0
Cape of Good Hope 3½% 1929-49	79	4 8 7	5 4 0
Commonwealth of Australia 5% 1945-75	94	5 6 5	5 7 0
Gold Coast 4½% 1956	94	4 15 9	4 18 0
Jamaica 4½% 1941-71	92	4 17 10	4 19 0
Natal 4% 1937	91	4 7 11	5 11 3
New South Wales 4½% 1935-45	88	5 2 3	5 12 6
New South Wales 5% 1945-65	95	5 5 3	5 6 0
New Zealand 4½% 1945	92	4 17 10	5 5 6
New Zealand 5% 1946	100	5 0 0	5 0 0
Queensland 5% 1940-60	93	5 7 6	5 9 4
South Africa 5% 1945-75	99	5 1 0	5 1 0
South Australia 5% 1945-75	94	5 6 5	5 7 0
Tasmania 5% 1945-75	95	5 5 3	5 5 6
Victoria 5% 1945-75	94	5 6 5	5 7 0
West Australia 5% 1945-75	94	5 6 5	5 7 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	61	4 18 4	—
Birmingham 5% 1946-56	100	5 0 0	5 0 0
Cardiff 5% 1945-65	99	5 1 0	5 1 0
Croydon 3% 1940-60	68	4 8 3	5 2 0
Hull 3½% 1925-55	76	4 12 1	5 4 0
Liverpool 3½% Redeemable by agreement with holders or by purchase	70	5 0 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	51	4 16 3	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	61	4 18 4	—
Manchester 3% on or after 1941	61	4 18 4	—
Metropolitan Water Board 3% 'A' 1963-2003	60	5 0 0	—
Metropolitan Water Board 3% 'B' 1934-2003	62	4 16 9	—
Middlesex C. C. 3½% 1927-47	81	4 6 5	5 2 6
Newcastle 3½% Irredeemable	70	5 0 0	—
Nottingham 3% Irredeemable	60	5 0 0	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	99	5 1 0	5 1 4
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	79½	5 0 8	—
Gt. Western Rly. 5% Rent Charge	95½	5 4 9	—
Gt. Western Rly. 5% Preference	90	5 11 1	—
L. & N. E. Rly. 4% Debenture	73½	5 8 10	—
L. & N. E. Rly. 4% 1st Guaranteed	70	5 14 4	—
L. & N. E. Rly. 4% 1st Preference	63½	6 6 0	—
L. Mid. & Scot. Rly. 4% Debenture	76	5 5 3	—
L. Mid. & Scot. Rly. 4% Guaranteed	73½	5 8 9	—
L. Mid. & Scot. Rly. 4% Preference	67	5 19 5	—
Southern Railway 4% Debenture	76	5 5 3	—
Southern Railway 5% Guaranteed	95	5 5 3	—
Southern Railway 5% Preference	83½	5 19 9	—

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IELDWITH REDEMP-TION.	£	s.	d.
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